

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC 20591

* * * * *
In the matter of the petition of
FIRELANDS MUSEUM OF MILITARY HISTORY
for an exemption from Section 91.319
119.5(g), and 119.25(b) of Title 14,
Code of Federal Regulations
* * * * *

Regulatory Docket
No. 29156

GRANT OF EXEMPTION

By undated letter, Mr. John W. Harrington, Counsel for The Firelands Museum of Military History (FMOMH), Blatt, Hammesfahr & Eaton, 333 West Wacker Drive, Suite 1900, Chicago, Illinois 60606, petitioned the Federal Aviation Administration (FAA) on behalf of FMOMH for an exemption from Section 91.319 of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would permit the FMOMH to operate its former military UH-1H (Huey) helicopters that hold experimental exhibition certificates for the purpose of carrying its members on local educational flights. Although the petitioner requested an exemption from Section 91.319, the FAA finds that the type of relief requested also requires an exemption from 14 CFR Sections 119.5(g) and 119.25(b). Therefore, the FAA will address the petitioner's request as an exemption from Sections 91.319, 119.5(g), and 119.25(b).

The petitioner requires relief from the following regulations:

Section 91.319 prescribes, in pertinent part, that no person may operate an experimental category civil aircraft for other than the purpose for which the certificate was issued, or for carrying persons or property for compensation or hire.

Section 119.5(g) prescribes, in pertinent part, that no person may operate as a commercial operator without or in violation of an appropriate certificate and appropriate operations specifications.

Section 119.25(b) prescribes, in pertinent part, that each person who conducts rotorcraft operations for compensation or hire must comply with the certification and operations specifications requirements of part 119, Subpart C, and shall conduct its on-demand operations in accordance with the applicable requirements of 14 CFR part 135 and shall be issued operations specifications for those operations in accordance with those requirements.

The petitioner supports its request with the following information:

The petitioner states that the FMOMH is an Ohio nonstock corporation that qualifies for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code. The petitioner states that the FMOMH offers its members and the general public an opportunity to learn about the machinery that supported U.S. military personnel during World War II, the Korean War, and the Vietnam War.

According to the petitioner, membership in the FMOMH is available through a charitable donation to the FMOMH. Such donations are used to fund the operation and maintenance of the museum and its aircraft. Only FMOMH members would be offered historic flights to local "battlefields" in the FMOMH's Huey helicopters. The petitioner states that the FMOMH has become a popular tourist attraction and these flights would provide the FMOMH members with an appreciation for the important role of Huey helicopters in U.S. military history. The petitioner adds that the FMOMH has participated in numerous regional aviation events, where approximately 1,210 people had the opportunity to learn about Huey helicopters. According to the petitioner, over 400 individuals visited the FMOMH throughout 1997.

The petitioner states that to retain its Internal Revenue Service (IRS) Section 501(c)(3) status, the FMOMH must provide educational experiences relating to U.S. military history. According to the petitioner, the FMOMH has developed an aviation facility standard operation procedures, which allows the museum to provide an effective educational experience. The petitioner states that this manual includes sections describing the FMOMH mission, duties and responsibilities of FMOMH personnel, recordkeeping procedures, flightcrew flight requirements, ramp and passenger operations procedures, noise abatement procedures, and emergency training.

The petitioner also states that the educational and historical benefits of participating in a flight experience in the Hueys will provide an understanding of the aviation operations and history of the Vietnam War. The petitioner adds that it is in the public interest for FMOMH to continue

its educational and historical mission. The petitioner contends that this historical benefit cannot be provided if civilian aircraft are used.

Finally, the petitioner states that the FMOMH has organized the operational aspects of its program to meet or exceed military and civilian safety requirements. According to the petitioner, most FMOMH pilots are former military rotorcraft pilots and most maintenance personnel have been military trained. In addition, a crew chief would be on board the aircraft to assist in emergency situations. The petitioner also states that the FMOMH FAA-approved inspection program is identical to the U.S. Army's Huey maintenance program, and the aircraft would be maintained in accordance with FAA-approved 150-hour and annual inspections.

The FAA has determined that good cause exists for waiving the requirement for Federal Register publication because the exemption, if granted, would not set a precedent, and any delay in acting on this petition would be detrimental to FMOMH.

The FAA's analysis/summary is as follows:

The FAA finds that preserving historic U.S. aircraft is in the public interest in the same manner that preserving historic buildings, landmarks, and neighborhoods has been determined to be in the public interest. While aviation history can be represented with static displays in museums in the same manner that historic landmarks can be represented in museums, the public has shown a willingness to support the preservation and operation of U.S. vintage military aircraft and a desire to experience flights in these historic aircraft.

The FAA also recognizes that the only way to maintain vintage aircraft in an operational status is to accept financial contributions to defray the high costs of maintaining those aircraft and ensuring crew operating experience requirements are met. In return, paying members of the public have the opportunity to experience a local flight in an historic aircraft. Without these contributions, it is reasonable to conclude that operators of these aircraft would not be able to raise sufficient funds to maintain the aircraft and provide flying experiences to the public.

The FAA notes that individuals who choose to accept a flight experience in these helicopters differ from the general traveling public. These passengers support the continued operation of historic aircraft through a substantial monetary donation. Many of these passengers are familiar with the aircraft's military history and are aware that it is not a standard category aircraft. Unlike passengers who purchase tickets on an aircraft used for airline travel

solely for transportation, these passengers are specifically seeking the experience of flying in historic aircraft.

The FAA finds that the operation of former military aircraft raises significant safety issues, such as life-limited parts and aircraft design. Additionally, the FAA has determined that all flight crewmembers are required to meet stringent qualifications and training requirements. Therefore, certain conditions and limitations have been included in this and previously issued exemptions to standardize the maintenance and inspection of the Huey helicopter when it is operated under the authority of this exemption and to ensure FMOMH is maintaining highly skilled and qualified pilots to operate its helicopter.

Finally, the FAA has initiated rulemaking to allow operators of U.S. vintage military aircraft to provide flight experiences to the public for compensation or hire. The FAA believes that if these operations conform to the rules similar to the conditions and limitations in this exemption, the public will be provided an adequate level of safety while given the opportunity to experience flight in U.S. vintage military aircraft.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. Sections 40113 and 44701, delegated to me by the Administrator (14 CFR Section 11.53), the Firelands Museum of Military History is granted an exemption from 14 CFR Sections 91.315, 119.5(g), and 119.25(b) to the extent necessary to operate its former military Huey helicopters, which are certificated in the experimental category, for the purpose of carrying passengers on local flights for compensation or hire, subject to the following conditions and limitations:

1. FMOMH must maintain its Huey helicopters in accordance with the -
 - a. Maintenance requirements as specified in its Huey type specification sheet, as amended;
 - b. FAA-approved maintenance inspection program that meets the requirements of Section 91.409; and
 - c. Huey military technical manuals.
2. The pilot in command (PIC) must -
 - a. Hold at least a commercial pilot certificate with a rotorcraft category rating and a helicopter class rating, and a helicopter instrument rating;
 - b. Have completed FMOMH's Huey qualification and recurrent flight and ground training program

within the previous 12 calendar months;

- c. Have at least a total of 2,500 hours of aeronautical flight experience, 1,000 hours of aeronautical flight experience in helicopters, and 25 hours in a Huey helicopter; or have at least a total of 1,000 hours of aeronautical flight experience, 200 hours of aeronautical flight experience in helicopters, and 100 hours and 50 takeoffs and 50 landings in a Huey helicopter; and
 - d. Have accomplished three takeoffs and three landings to a full stop in a Huey helicopter within the previous 90 days before serving as PIC.
3. The second in command (SIC) must -
- a. Hold at least a commercial pilot certificate with a rotorcraft category rating and a helicopter class rating, and a helicopter instrument rating;
 - b. Have completed FMOMH's Huey qualification and recurrent flight and ground training program within the previous 12 calendar months;
 - c. Have at least a total of 1,500 hours of aeronautical flight experience and 250 hours of aeronautical flight experience in helicopters; or have at least a total of 500 hours of aeronautical flight experience, 100 hours of aeronautical flight experience in helicopters, and 25 hours and 10 takeoffs and 10 landings in a Huey helicopter; and
 - d. Have accomplished three takeoffs and three landings to a full stop in a Huey helicopter within the previous 90 days before serving as SIC.
4. FMOMH must develop and maintain a written Huey qualification and recurrent ground training program for its PICs and SICs that covers the training subjects listed below. Each PIC and SIC must receive this training and be found competent and proficient in training on the following:
- a. General information and description of the aircraft;
 - b. Aircraft limitations;
 - c. Aircraft servicing;
 - d. Airspeeds;

- e. Fuel system;
 - f. Electrical system;
 - g. Hydraulic system;
 - h. Engines;
 - i. Instruments and avionics;
 - j. Controls;
 - k. Rotors;
 - l. Emergency procedures;
 - m. Weight and balance;
 - n. Performance planning; and
 - o. Aircraft checklist.
5. FMOMH must develop and maintain a written Huey qualification and recurrent flight training program for its PICs that covers the areas of operations and tasks listed in the practical test standards for "Airline Transport Rating and/or Type Rating Practical Test Standards," FAA-S-8081-5B, and each PIC must receive this training and be found competent and proficient in those areas of operations and tasks before being assigned PIC responsibilities and duties.
6. FMOMH must develop and maintain a written Huey qualification and recurrent flight training program for its SICs that covers the maneuvers and procedures listed below. Each SIC must receive this training and be found competent and proficient on the following maneuvers and procedures before being assigned SIC responsibilities and duties.
- a. Operational procedures applicable to the powerplant, equipment, and systems;
 - b. Performance specifications and limitations;
 - c. Normal, abnormal, and emergency operating procedures;
 - d. Three takeoffs and three landings to a full stop as the sole manipulator of the flight controls;
 - e. Engine-out procedures; and
 - f. Crew resource management training.

In addition, each SIC must be familiar with the aircraft flight manual, placards, and markings.

7. Each PIC must complete a proficiency practical test upon completion of the initial qualification training program and the recurrent training program (every 12 calendar months after completion of the initial qualification training program) that covers the areas of operations and tasks listed in the "Airline Transport Rating and/or Type Rating Practical Test Standards," FAA-S-8081-5B. Each PIC must be found competent and proficient in those areas of operation and tasks before being assigned PIC duties and responsibilities.
8. Each SIC must complete a proficiency practical test upon completion of the initial qualification training program and the recurrent training program (every 12 calendar months after completion of the initial qualification training program) that covers the following maneuvers and procedures before being assigned SIC responsibilities and duties:
 - a. Operational procedures applicable to the powerplant, equipment, and systems;
 - b. Performance specifications and limitations;
 - c. Normal, abnormal, and emergency operating procedures;
 - d. Three takeoffs and three landings to a full stop as the sole manipulator of the flight controls;
 - e. Engine-out procedures; and
 - f. Crew resource management training.

In addition, each SIC must be familiar with the aircraft flight manual, placards, and markings.

9. FMOMH's Huey qualification and recurrent ground and flight training programs listed in condition Nos. 4, 5, and 6 must be made available to the Columbus Flight Standards District Office, 3939 International Gateway, 2nd Floor, Port Columbus International Airport, Columbus, Ohio 43219 upon request.
10. FMOMH must have the services of an FAA-certificated airframe and powerplant mechanic or an appropriately rated repair station available at all stopovers to perform all required maintenance inspections and repairs.

11. FMOMH will maintain the following information and records and will make those records available for review by the FAA when requested.
 - a. The name of each pilot crewmember FMOMH authorizes to conduct flight operations in its aircraft under the terms of this exemption;
 - b. Copies of each PIC and SIC's pilot certificate, medical certificate, qualifications, and recurrent training documentation in the Huey helicopter to comply with condition Nos. 2 and 3;
 - c. Records of maintenance performed and maintenance inspection records to comply with condition No. 1; and
 - d. A listing of any incident, accident, or mechanical failure of the airframe, rotors, or engine that occurs during operations under this exemption. That listing must include the date of the incident, accident, or failure; all information on the possible cause factors; and the extent of injuries sustained.
12. Before permitting a person to be carried on board its aircraft for the purposes authorized under this exemption, FMOMH will inform that person that its aircraft holds an experimental airworthiness certificate, the significance of an experimental airworthiness certificate compared to a standard airworthiness certificate, and that the FAA has authorized this flight under a grant of exemption from the requirements of Sections 91.315, 119.5(g), and 119.25(b). The explanation of the significance of an experimental airworthiness certificate compared to a standard airworthiness certificate must include at least the following information.
 - a. The FAA has not established nor has it approved experimental category airworthiness certificated aircraft manufacturer standards. In contrast, standard category airworthiness certificated aircraft are manufactured to FAA-approved standards, including standards addressing the design of the aircraft and life-limited parts.
 - b. An aircraft may be issued an experimental airworthiness certificate when the -
 - (i) Builder of the helicopter submits a statement that states the purpose for which the aircraft is to be used;

- (ii) Builder of the helicopter submits enough data to identify the aircraft;
 - (iii) Builder of the helicopter submits information found necessary to safeguard the public; and
 - (iv) FAA finds the fabrication and assembling of the helicopter complies with acceptable aeronautical standards and practices.
 - c. Standard category airworthiness certificates are issued for an aircraft when the FAA finds the -
 - (i) Aircraft has been built and maintained in accordance with that aircraft's type certification standards as established by the FAA; and
 - (ii) Aircraft's inspection and maintenance requirements are in compliance with the applicable Federal Aviation Regulations.
- 13. All flight operations must be conducted -
 - a. At a minimum operating altitude of not less than 1,000 feet above the ground (AGL);
 - b. Between the hours of official sunrise and sunset, as established in the American Air Almanac and converted to local time;
 - c. With a minimum flight visibility of not less than 5 statute miles;
 - d. With a minimum ceiling of not less than 2,000 feet AGL;
 - e. Within a 50-nautical-mile radius of the departure airport with landing permitted only at that departure airport; and
 - f. At an airport that has a fire station or firefighting services available.
- 14. No persons other than the assigned flight crewmembers may be permitted on the flight deck of the aircraft during flight operations.
- 15. Except for essential crewmembers, all flight operations must carry no more than the maximum number of passengers permitted by the aircraft's weight and balance limitations and number of approved seats in the

aircraft.

16. Except for an emergency locator transmitter, FMOMH's aircraft must have the equipment listed in Section 91.205(b), and that equipment must be in an operable condition during the flight.
17. If the aircraft is to be operated over water and beyond the power-off autorotative distance from shore, FMOMH's aircraft must have the equipment listed in Section 91.205(b)(12), and that equipment must be in an operable condition during the flight.
18. FMOMH must hold and continue to hold a determination from the U.S. IRS that it is a Section 501(c)(3) nonprofit, tax-exempt, charitable organization under Sections 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code.

This exemption terminates on July 31, 2000, unless sooner superseded or rescinded.

Issued in Washington, DC, on July 1, 1998.

/s/ Thomas E. Stuckey
Acting Director, Flight Standards Service